



DOCKET NO. ETH5104
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wellman et al.
Serial No.: 10/699,166 Art Unit: 3739
Filed : October 31, 2003 Examiner:
For : Surgical Device Having a Track to Guide Actuator

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

March 18, 2004

(Date of Deposit)

Brian S. Tomko

(Name of applicant, assignee, or Registered Representative)

BST

(Signature)

March 18, 2004

(Date of Signature)

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUBMISSION OF COMBINED DECLARATION AND POWER OF ATTORNEY

Dear Sir:

Pursuant to Rule 53(f) and Rule 54, please find enclosed a Combined Declaration and Power of Attorney for the application of Wellman et al. entitled Surgical Device Having a Track to Duide and Actuator attorney Docket No.ETH5104, to complete, pursuant to Rule 51, this application filed on October 31, 2003 by Express Mail pursuant to Rule 10. As required, a copy of the Notice to File Missing Parts of Application is also attached.

Please charge Johnson & Johnson Deposit Account No. 10-0750/ETH5104/BST in the amounts of \$130.00 for submission of the Declaration pursuant to Section 1.16(e). The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 10-0750/ETH5104/BST. This sheet is submitted in triplicate.

Respectfully submitted,

BST

Brian S. Tomko
Reg. No. 41,349
Attorney for Applicant(s)

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-1239



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Please type a plus sign (+) inside this box

PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032

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**DECLARATION
AND
POWER OF ATTORNEY
FOR UTILITY OR DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

Declaration Submitted with Initial Filing Declaration Submitted after Initial Filing (Surcharge (37 CFR 1.16(e)) required)
OR

Attorney Docket Number	ETH5104
First Named Inventor	Parris Wellman
<i>COMPLETE IF KNOWN</i>	
Application Number	10/699,166
Filing Date	10/31/03
Group Art Unit	
Examiner Name	

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Surgical Device Having a Track to Guide Actuator
(Title of the Invention)

the specification of which

is attached hereto

OR

was filed on (MM/DD/YYYY) as United States Application Number or PCT International Application Number and was amended on (MM/DD/YYYY)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<input type="checkbox"/> Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:				



DECLARATION - Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status
		Patented
		Patented
		Patented

I hereby appoint:

Practitioners at Customer Number **000027777** → Place Customer
Number Bar Code
Label Here

AND

Practitioner(s) named below:
Name Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Address all telephone calls to Brian S. Tomko at telephone number (732) 524-1239.

Customer Number
Direct all correspondence to: or Bar Code Label **000027777** OR Correspondence address below

Name:

Address:

Address:

City:	State:	ZIP
Country	Telephone:	Fax:



I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

<i>First</i> NAME OF SECOND INVENTOR:	<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]) Parris		Family Name or Surname Wellman	
Inventor's Signature 			Date 2/23/04
Residence: City Hillsborough	State NJ	Country US	Citizenship US
Mailing Address 61 Taurus Dr., Apt. 3A			
City Hillsborough	State NJ	ZIP 08844	Country US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

<i>Second</i> NAME OF SOLE OR FIRST INVENTOR:	<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]) Simon		Family Name or Surname Cohn	
Inventor's Signature 			Date 2/19/04
Residence: City Rutherford	State NJ	Country US	Citizenship US
Mailing Address 11 Elm St., Apt. 2			
City Rutherford	State NJ	ZIP 07070	Country US

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF THIRD INVENTOR:	<input type="checkbox"/> A petition has been filed for this unsigned inventor		
Given Name (first and middle [if any]) John		Family Name or Surname Young	
Inventor's Signature 			Date 2/19/04
Residence: City Staten Island	State NY	Country US	Citizenship US
Mailing Address 48 Ashton Dr.			
City Staten Island	State NY	ZIP 10312	Country US